IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 28TH NOVEMBER 2006 / 7TH AGRAHAYANA 1928

Bail Appl..No. 6949 of 2006()

CRIME NO. 503/2006 OF HOSDURG POLICE STAION

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PETITIONER/ACCUSED NO.1

C.KUNHAMMAD, S/O.LATE ABDULRAHIMAN,
SANAL MANZIL, NORTH KOTTACHERRY,
AJANUR VILLAGE.

BY ADV. SRI.M.K.DAMODARAN (SR.)
SRI.SOJAN MICHEAL

RESPONDENTS: COMPLAINANT

STATE OF KERALA, (S.H.O. CRIME
NO.503/2006 OF HOSDURG POLICE STATION),
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD
ON 24/11/2006, ALONG WITH B.A. 6953/06
THE COURT ON 28/11/2006 PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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B.A. Nos. 6949/06 & 6953 of 2006

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Dated, this the 28th day of November 2006

ORDER

Petitioners who are accused Nos. 1,2 and 3 respectively in Crime No. 503 of 2006 of Hosdurg police station, seek bail. Petitioners were arrested on bail on 16-11-2006.

2. The learned Public Prosecutor opposed the applications and made available to me the case diary files relating to the matter.

3. The 20 year old de facto complainant is a resident of Peravoor. Her father is a coolie worker. Younger brother is a driver. After studying plus two she did nursing from Fathima Matha College of Nursing, Iritty. After 1 ½ years of nursing she joined Manzoor Hospital, Kanhangad as a practical trainee on 11-5-2005. Four other girls who had studied nursing along with the de facto complainant and joined Manzoor Hospital. All of them were staying in the hostel. After six month's training the de facto complainant was posted in the reception stating that the post of Receptionist was lying vacant. She was compelled by the first accused the Chairman of the Hospital to continue in the said post. As a Receptionist, she had innumerable duties including reconciliation of the cash balance every day. She was

supposed to show the Chairman every day at 6 p.m. the energy consumption by placing the electricity meter readings. Initially A1 was showing dignified behaviour towards her. Subsequently, there were visible changes in his conduct towards her. When she pleaded with him to relieve her from the post of Receptionist, he told her that she was retained there for him to see her. Subsequently, he used to hold her by the hand and whenever she was in his room, he started bolting the door from inside. When she entered his room to show the accounts he used to embrace her and kiss her. Whenever she resisted, he used to threaten her by saying that she would not see the outside world and that he would falsely implicate her in a criminal case. She had revealed to Sathi, the Nursing Superintendent about the prurient overtures of A1. That lady consoled her by saying that such things happened in an institution of this nature she should not divulge it to anybody or else it will be bad for her. Thereafter, she did not reveal it to anybody. On Ist October 2006 she wrote to the Chairman to relieve her as her training was over and requested him to return her S.S.L.C. Certificate, experience certificate etc. A1 tore off her application in her presence itself. On 8-10-2006, she went home consequent on the sanctioning of one day's leave. When

she did not return she was getting threatening phone calls stating that she will be implicated in false cases. Getting scared, she returned to the hospital on 18-10-1996. It was night duty on that day. Next day when she re-joined for night duty she put in another application for return of her certificate etc. Her application was not accepted. On 20-10-2006, while she was doing night duty A1 called her to his room at about 8 p.m. When she went there A1 told her that she should not leave the hospital until her marriage and that till then all possible help will be extended to her and she should co-operate. So saying, A1 locked the door from inside. He caught hold of her by hand and embraced her. When she screamed aloud, Radhika who was standing outside the door did not come to her rescue. The de facto complainant was ravished by A1 against her will and without her consent. Somebody tried to open the door and seeing that it was Shamsu, the brother of A1, she told A1 that she would reveal everything to Shamsu. A1 told her that those things would be taken care and that she need not worry about the same. The de facto complainant resumed her duty thereafter. Next day morning she complained to Sathi (A3) about what happened. She told her that she should not reveal the incident to anybody and promised to get her the certificate.

Eventhough she tendered her resignation on 30-10-2006 A1 did not accept the same. She, therefore, placed the resignation letter on the table and left. Thereafter, A1 was behaving very rudely towards all. A2 came and told her that if anybody including the Principal or Shamsu asked her about what happened she should not divulge anything to them. A2 also requested the de facto complainant to withdraw her resignation and to continue in the said hospital assuring her that she would see to it that there was no recurrence of the incident. However, the victim insisted that she would quit. Then A3 told her that she could quit only if she got her S.S.L.C. book back. After a few days she revealed everything to the Principal who consoled her saying that he would get her the S.S.L.C. Book and permitted her to go home. Thereafter, getting information that there was a vacancy in Deepa Nursing Home at Kanhangad, she joined there. She never got her S.S.L.C. Book back.

4. This is a case in which the accused persons acting connivingly were sexually exploiting the de facto complainant by taking advantage of her vulnerable position as an apprentice in the hospital She was virtually suffering in silence and was scared to reveal the lascivious behaviour of A1 for fear of consequences. The

investigation of the case is still in the preliminary stage and if at this stage the accused are released on bail, they will definitely influence and intimidate the prosecution witnesses including the prosecutrix and will attempt to tamper with the evidence of the prosecution. For obvious reasons, offences of this nature do come to light only days or even months after their commission. It is too early to conclude that this is a false case foisted against the accused after considerable delay.

I am not inclined to grant bail to the petitioners. These applications are accordingly dismissed.

V. RAMKUMAR,
(JUDGE)

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